**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF CALIFORNIA**

JAMES E. CONNELLY,

Plaintiff,

vs.

VETERANS VILLAGE OF SAN DIEGO,

Defendant.

CASE NO. 08cv0048 DMS (JMA)

**ORDER (1) GRANTING MOTION TO PROCEED *IN FORMA PAUPERIS* AND (2) REMANDING CASE TO STATE COURT**

Plaintiff, a nonprisoner proceeding *pro se*, has filed a notice of removal of his state court complaint and a Motion and Declaration Under Penalty of Perjury in Support of Motion to Proceed *In Forma Pauperis* ("IFP").

**Motion to Proceed IFP**

All parties instituting any civil action, suit or proceeding in a district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of $350. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure to prepay the entire fee only if the plaintiff is granted leave to proceed IFP pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). This Court finds Plaintiff's affidavit of assets is sufficient to show that he is unable to pay the fees or post securities required to maintain this action. *See* Civil Local R. 3.2(d). Accordingly, the Court **GRANTS** Plaintiff's Motion to Proceed IFP pursuant to 28 U.S.C. § 1915(a).

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**Removal**

Notwithstanding the above, to the extent Plaintiff seeks to bring this action to the federal court by removing it from state court, the removal is not permitted. A plaintiff cannot remove his own action from state court; only a defendant may remove an action to federal court. 28 U.S.C. § 1441; *Okot v. Callahan*, 788 F.2d 631, 633 (9th Cir. 1986) (per curiam). Accordingly, the Court remands this action to San Diego Superior Court. 28 U.S.C. § 1447©).

**Conclusion and Order**

For these reasons, **IT IS HEREBY ORDERED** that Plaintiff's Motion to Proceed IFP is **GRANTED** and the Complaint is **REMANDED** to state court.

**IT IS SO ORDERED**.

DATED: August 11, 2008

HON. DANA M. SABRAW
United States District Judge